Draft Regulations laid before Parliament under section 119(2)(ha), (hb) and (i) of the Higher Education and Research Act 2017 (c. 29), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2026 No. 000

EDUCATION, ENGLAND

The Lifelong Learning (Fee Limits) Regulations 2026

Made - - - -	***
Coming into force - -	*1st September 2026*

CONTENTS

PART 1

Introduction

1. Citation, commencement, extent and application
2. Amendments to application of other subordinate legislation
3. General interpretation

PART 2

Application of the fee limit condition for lifelong learning

4. Registered higher education providers that are subject to the fee limit condition
5. Qualifying person
6. Qualifying person: effect of event during course year
7. Qualifying course

PART 3

Fee limits for lifelong learning

8. Use of the credit-based method for determining the fee limit
9. Attachment of credits
10. Foundation years
11. Credit-differentiated activities
12. Per-course amount
13. Per-year amount
14. Maximum number of credits
15. Default number of credits
16. Top-up courses
17. Transfer cases
18. Per-credit limits

PART 4

Consequential Amendment

19. Consequential Amendment of the Higher Education (Fee Limit Condition) (England) Regulations 2017

SCHEDULES

Schedule 1 — Qualifying persons
Part 1 — Interpretation
Part 2 — Qualifying person: categories
Schedule 2 — CAH3 codes for determining foundation year fee
Schedule 3 — Per-course amounts for other higher education courses

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 10(1), (4)(b) and (6) and 119(5) of, and paragraphs 1(3), 1B(1), (2) and (3), 1C(1) and (3), 1F(1), 1G(2), 1I(4) and (5), 2(5) and (11), and 3(4) and (10) of Schedule 2 to, the Higher Education and Research Act 2017(**a**).

In accordance with paragraph 5(2)(a) of Schedule 2 to that Act, the Secretary of State is satisfied that the increases to the higher amounts are no greater than are required to maintain the value of those amounts in real terms.

In accordance with section 119(2)(ha), (hb) and (i) of that Act, a draft of this instrument has been laid before Parliament and approved by resolution of each House of Parliament.

PART 1

Introduction

Citation, commencement, extent and application

1. These Regulations—

(a) may be cited as the Lifelong Learning (Fee Limits) Regulations 2026,

(b) come into force on 1st September 2026,

(c) extend to England and Wales, and

(d) apply in relation to England.

Amendments to application of other subordinate legislation

2.—(1) In the Higher Education (Fee Limit Condition) (England) Regulations 2017(**b**), after regulation 1A insert—

> **"Courses beginning on or after 1st January 2027**
>
> **1B.** These Regulations do not apply in relation to higher education courses which begin on or after 1st January 2027.".

(**a**) 2017 c. 29. Sections 10 and 119 of, and Schedule 2 to, the Higher Education and Research Act 2017 ("the 2017 Act") were amended by sections 1 and 2 of the Lifelong Learning (Higher Education Fee Limits) Act 2023 (c. 40) ("the 2023 Act"); "prescribed" is defined in section 10(9) of, and Schedule 2 to, the 2017 Act.
(**b**) S.I. 2017/1189.

(2) In the Higher Education (Fee Limits and Fee Limit Condition) (England) Regulations 2018(**a**), after regulation 2 insert—

"Courses beginning on or after 1st January 2027

2A. These Regulations do not apply in relation to courses which begin on or after 1st January 2027.".

(3) In the Higher Education (Fee Limits for Accelerated Courses) (England) Regulations 2019(**b**), after regulation 2 insert—

"Courses beginning on or after 1st January 2027

2A. These Regulations do not apply in relation to courses which begin on or after 1st January 2027.".

General interpretation

3. In these Regulations—

"the 2017 Act" means the Higher Education and Research Act 2017;

"course start date" means the date within the first course year on which a course(**c**) begins;

"credit-differentiated activities" has the meaning given by regulation 11;

"the first course year", in relation to a qualifying course, means a course year(**d**) as described in section 10(7B)(a) of the 2017 Act (being the period of 12 months beginning with the first day of the month in which the course begins);

"foundation year" has the meaning given by regulation 10;

"full-time course year" means a course year that—

(a) if it contains activities which cumulatively are 15 or more weeks long, contains more than 900 notional learning hours, or

(b) if it contains activities which cumulatively are less than 15 weeks long, contains more than 450 notional learning hours,

and references to study which is full-time or equivalent to full-time are to be construed accordingly;

"higher fee foundation year study" has the meaning given by regulation 10;

"home institution", in relation to a student, means the provider which offers the course being applied for or undertaken;

"immigration rules" has the meaning given in section 33(1) of the Immigration Act 1971(**e**);

"intercalated year" means an additional year of study undertaken part way through a course in medicine, dentistry or veterinary science—

(**a**) S.I. 2018/903.
(**b**) S.I. 2019/214.
(**c**) Under section 10(6) of the 2017 Act, a "qualifying course" can only be a "higher education course"; and by virtue of the definition of "higher education course" in section 83(1) of the 2017 Act (as substituted by section 16(1) and (3) of the Skills and Post-16 Education Act 2022 (c. 21) ("the 2022 Act")), reference to a "higher education course" includes reference to "a module of such a course, where it is taken otherwise than as part of that course".
(**d**) The meaning of "course year" in relation to a "qualifying course" is given in section 10(7B) of the 2017 Act, as inserted by section 1(2) of the 2023 Act.
(**e**) 1971 c. 77.

(a) during which a student studies a different subject (which may be in a field other than medicine, dentistry or veterinary science), and

(b) which (subject to successful completion) leads to the student being awarded an additional degree or equivalent qualification before the end of their course;

"the Islands" means the Channel Islands and the Isle of Man;

"lower fee foundation year study" has the meaning given by regulation 10;

"normal taught study" has the meaning given by paragraph (a) of the definition of "taught study";

"notional learning hours" means the volume of study for a course or part of a course measured in hours, and provides an indication of the approximate learning time for a student;

"parent" has the meaning given in paragraph 1(1) of Part 1 of Schedule 1;

"part-time", in relation to a course year, means—

(a) if it contains activities which cumulatively are 15 or more weeks long, contains 900 or fewer notional learning hours, or

(b) if it contains activities which cumulatively are less than 15 weeks long, contains 450 or fewer notional learning hours,

and references to study being part-time are to be construed accordingly;

"per-course amount" has the meaning given in regulation 12;

"per-year amount" has the meaning given by regulation 13;

"person granted Calais leave" means a person who—

(a) has extant leave to remain in the United Kingdom under paragraph 352J, 352K, 352L or 352T (Calais leave and "leave in line" granted by virtue of being a dependent child of a person granted Calais leave) of the immigration rules, and

(b) has been ordinarily resident in the United Kingdom and the Islands since the person was granted such leave to remain;

"person granted humanitarian protection" means a person—

(a) who, on the grounds of humanitarian protection, has been granted leave to remain under the immigration rules,

(b) whose leave to remain is extant, or in respect of whose leave to remain an appeal is pending (within section 104 of the Nationality, Immigration and Asylum Act 2002(**a**)), and

(c) who has been ordinarily resident in the United Kingdom and the Islands throughout the period since the person was granted such leave to remain;

"person granted indefinite leave to enter or remain as a bereaved partner" means a person—

(a) granted indefinite leave to enter or remain in the United Kingdom—

(i) under paragraph BP 11.1 of Appendix Bereaved Partner of the immigration rules,

(**a**) 2002 c. 41.

(ii) where such leave was granted before the coming into force of Appendix Bereaved Partner, under paragraph 288 of the immigration rules, as a person in relation to whom the requirements in paragraph 287(b) of those rules were met (bereaved partners),

(iii) where such leave was granted before the coming into force of Appendix Bereaved Partner, under paragraph 295N of the immigration rules, as a person in relation to whom the requirements in paragraph 295M of those rules were met (bereaved partners),

(iv) where such leave was granted before the coming into force of Appendix Bereaved Partner, under paragraph D-BPILR.1.1 of Appendix FM (bereaved partners) of the immigration rules,

(v) where such leave was granted before the coming into force of Appendix Bereaved Partner, under paragraph 36 of Appendix Armed Forces (bereaved partner of a member of HM Forces) of the immigration rules,

(vi) under paragraph AF (GHK) 14.1 of Appendix GHK of the immigration rules, as a bereaved partner, or

(vii) where such leave was granted prior to 5th October 2023, outside the immigration rules, on the basis that the person was a bereaved partner of a Gurkha discharged before 1st July 1997, and

(b) who has been ordinarily resident in the United Kingdom and the Islands since the person was granted such leave;

"person granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse" means a person—

(a) granted indefinite leave to enter or remain in the United Kingdom under any of the following provisions of the immigration rules (provisions regarding victims of domestic violence or abuse)—

(i) paragraph VDA 9.1 of Appendix Victim of Domestic Abuse, or

(ii) where such leave was granted before the coming into force of Appendix Victim of Domestic Abuse, paragraph 289B (victims of domestic violence), paragraph D-DVILR.1.1 of Appendix FM (victims of domestic abuse), or paragraph 40 of Appendix Armed Forces (victims of domestic violence: partners of members of the armed forces), and

(b) who has been ordinarily resident in the United Kingdom and the Islands since the person was granted such leave;

"person granted leave under one of the Afghan Schemes" means a person granted leave under the Afghan Citizens Resettlement Scheme or a person granted leave under the Afghan Relocations and Assistance Policy Scheme;

"person granted leave under one of the Ukraine Schemes" means a person granted leave under the Homes for Ukraine Sponsorship Scheme, a person granted leave under the Ukraine Extension Scheme, a person granted leave under the Ukraine Permission Extension Scheme or a person granted leave under the Ukraine Family Scheme;

"person granted leave under the Afghan Citizens Resettlement Scheme" means a person—

(a) who has indefinite leave to enter or remain in the United Kingdom, outside the immigration rules, on the basis of the Afghan Citizens Resettlement Scheme, and

(b) who has been ordinarily resident in the United Kingdom and the Islands throughout the period since the person was granted such leave;

"person granted leave under the Afghan Relocations and Assistance Policy Scheme" means a person—

(a) who has—

(i) indefinite leave to enter the United Kingdom under paragraph 276BA2 of the immigration rules or has indefinite leave to remain under paragraph 276BS2 of the immigration rules, having been relocated to United Kingdom pursuant to paragraph 276BB1(iii)(a) of the immigration rules,

(ii) indefinite leave to enter or indefinite leave to remain in the United Kingdom under paragraph ARAP 6.1 of Appendix Afghan Relocation and Assistance Policy of the immigration rules,

(iii) leave to enter the United Kingdom on the basis of the Afghan Relocations and Assistance Policy Scheme, or

(iv) indefinite leave to enter or remain in the United Kingdom, outside those rules, on the basis of the Afghan Relocations and Assistance Policy Scheme, and

(b) who has been ordinarily resident in the United Kingdom and the Islands throughout the period since the person was granted such leave;

"person granted leave under the Homes for Ukraine Sponsorship Scheme" means a person—

(a) who has leave to enter or remain in the United Kingdom—

(i) under paragraph UKR 19.1 of Appendix Ukraine Scheme of the immigration rules, or

(ii) outside the immigration rules, where the person—

(aa) was residing in Ukraine immediately before 1st January 2022, and

(bb) left Ukraine in connection with the Russian invasion which took place on 24th February 2022, and

(b) who has been ordinarily resident in the United Kingdom and the Islands throughout the period since the person was granted such leave;

"person granted leave under the Ukraine Extension Scheme" means a person—

(a) who has leave to remain in the United Kingdom under paragraph UKR 27.1 of Appendix Ukraine Scheme of the immigration rules, as it had effect on the day such leave was granted, and

(b) who has been ordinarily resident in the United Kingdom and the Islands throughout the period since the person was granted such leave;

"person granted leave under the Ukraine Family Scheme" means a person—

(a) who has leave to enter or remain in the United Kingdom—

(i) under paragraph UKR 9.1 of Appendix Ukraine Scheme of the immigration rules, as it had effect on the day such leave was granted, or

(ii) outside the immigration rules, where the person—

(aa) was residing in Ukraine immediately before 1st January 2022, and

(bb) left Ukraine in connection with the Russian invasion which took place on 24th February 2022, and

(b) who has been ordinarily resident in the United Kingdom and the Islands throughout the period since the person was granted such leave;

"person granted leave under the Ukraine Permission Extension Scheme" means a person—

(a) who has leave to remain in the United Kingdom under paragraph UKR 36.1 of Appendix Ukraine Scheme of the immigration rules, and

(b) who has been ordinarily resident in the United Kingdom and the Islands throughout the period since the person was granted such leave;

"person granted section 67 leave" means a person who—

(a) has extant leave to remain as a person granted leave under paragraph 352ZG of the immigration rules, having been relocated to the United Kingdom pursuant to arrangements made by the Secretary of State under section 67 of the Immigration Act 2016, or a dependent child of such a person who has been granted "leave in line" under paragraph 352ZO of those rules, and

(b) has been ordinarily resident in the United Kingdom and the Islands throughout the period since the person was granted such leave;

"person granted stateless leave" means a person who—

(a) has extant leave to remain as a stateless person under the immigration rules, and

(b) has been ordinarily resident in the United Kingdom and the Islands throughout the period since the person was granted such leave;

"previous years of the course", when referring to the number of credits charged for from the per-course amount for activities (such as taught study or study abroad etc.), means—

(a) in the first year of the course, zero (as there are no previous years of the course);

(b) in the second year of the course, the number of credits charged for in the first year of the course;

(c) in the third year of the course, the number of credits charged for in the first and second years of the course combined;

and so on, depending on the number of years within the course;

"provider" means a registered higher education provider of the description prescribed by regulation 4;

"qualifying course" has the meaning given by regulation 7;

"refugee" means a person who is recognised by His Majesty's Government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951 as extended by the Protocol thereto which entered into force on 4th October 1967;

"repeat study", in relation to a student, means a period of learning, which may relate to any activity within the course—

(a) that the provider requires the student to undertake in order to progress within the course,

(b) that serves the purpose of making up for elements of the course that the student has not completed or has not completed in a satisfactory way, and

(c) that the provider considers to be suitable, given the standards and expectations of the course;

"sandwich placement" means one or more periods amounting to at least 13 weeks within a course year—

(a) which the student spends away from the home institution on work experience placements, either in the United Kingdom, or abroad otherwise than as part of Turing mobility,

(b) which do not contribute towards a mandatory minimum amount of work placement that is required by a regulatory body contained, as at 1st August preceding the start of the course year, within the list referred to in regulation 11(3),

(c) which are not from a course for the initial training of teachers,

(d) which alternate with periods of study at the home institution (which may be in different course years from the time spent away from the home institution), and

(e) which are organised or facilitated by the home institution;

"study abroad" means one or more periods amounting to at least 13 weeks within a full-time course year which—

(a) are spent studying abroad (meaning other than in the United Kingdom or the Islands) otherwise than as part of Turing mobility,

(b) are undertaken in conjunction with an institution outside of the United Kingdom or the Islands,

(c) may comprise or include taught study,

(d) do not include a work placement, and

(e) exclude any period of study that—

(i) occurs in a course year containing at least 10 weeks of study at the home institution, and

(ii) does not extend the overall duration of the course beyond its full-time equivalent, which must not exceed three years (except in the case of courses in medicine, dentistry and veterinary studies, which may be of any duration);

"taught study" means learning at the home institution as part of a course, which includes (but is not limited to)—

(a) lectures, coursework, laboratory work, seminars, and independent reading or study, assessment and revision ("normal taught study"),

(b) repeat study,

(c) lower fee foundation year study, and

(d) higher fee foundation year study;

"top-up course" has the meaning given by regulation 16;

"Turing mobility" means one or more periods amounting to at least 13 weeks within a full-time course year which—

(a) are spent either studying or on work experience outside the United Kingdom, as part of the scheme established by the Secretary of State and known as the Turing Scheme (being a government programme in the United Kingdom that provides funding for international opportunities in education and training across the world), and

(b) exclude any period of study that—

(i) occurs in a course year containing at least 10 weeks of study at the home institution, and

(ii) does not extend the overall duration of the course beyond its full-time equivalent, which must not exceed three years (except in the case of courses in medicine, dentistry and veterinary studies, which may be of any duration).

PART 2

Application of the fee limit condition for lifelong learning

Registered higher education providers that are subject to the fee limit condition

4. A registered higher education provider that is registered in the "Approved (fee cap)" part of the register(**a**) is prescribed(**b**) for the purposes of section 10(1) of the 2017 Act(**c**).

Qualifying person

5.—(1) Subject to paragraph (4) and regulation 6, a person is of a description prescribed for the purposes of section 10(4)(b) of the 2017 Act if they—

(a) fall within a settled category or a protected category—

(i) on the course start date, where the course year is the first course year of the person's course, or

(ii) otherwise, on the first day of a relevant course year, or

(b) fall within a prescribed category on the first day of a relevant course year.

(2) In this regulation, subject to paragraph (3), "prescribed category" means any category of persons described in paragraphs 2, 4, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27 in Part 2 of Schedule 1.

(3) In relation to a qualifying course which begins on or after 1st January 2028, paragraph (2) has effect as if it did not mention paragraphs 19, 20 and 23 in Part 2 of Schedule 1.

(4) For the purposes of this regulation, where—

(a) a person fell within a settled category, a protected category or a prescribed category on the day specified in paragraph (1)(a)(i) or (ii) or (b) (as the case may be),

(b) after that day, they become a person who no longer falls within a paragraph of Part 2 of Schedule 1 as a result of their leave to remain or the leave to remain of their spouse, civil partner or parent (as the case may be) having expired, and

(c) either—

(i) further leave to remain has been granted,

(ii) paragraph SUI 13.1 of the immigration rules applies in respect of an application for such leave, or

(iii) the person whose leave to remain has expired has become a British or Irish citizen,

the person who would otherwise no longer fall within a paragraph in Part 2 of Schedule 1 is to be treated as falling within the paragraph in Part 2 of Schedule 1 in which they previously fell for the remainder of the duration of the course.

(**a**) Further to section 3(1) of the 2017 Act, "the register" means a register of English higher education providers established and maintained by the OfS (meaning the Office for Students, as established by section 1(1) of the 2017 Act). An "English higher education provider", as defined in section 83(1) of the 2017 Act, means a higher education provider whose activities are carried on, or principally carried on, in England.

(**b**) "prescribed" has the meaning given by section 10(9) of the 2017 Act.

(**c**) Section 10(1) of the 2017 Act requires the OfS to ensure that the ongoing registration conditions of a prescribed provider include a fee limit condition.

(5) Where a protected category event occurs in relation to a person after the course start date, paragraph (6) applies for the purposes of determining whether the person falls within a protected category on the first day of the relevant course year.

(6) The person is, for the purposes of determining whether they satisfy any requirement in Part 2 of Schedule 1 that they are ordinarily resident in the United Kingdom on the course start date, to be treated as if the person was, on the course start date, lawfully residing in the place where the person was residing on that date.

(7) For the purposes of this regulation—

"protected category" means any category of persons described in paragraph 5, 6, 7, 8, 9, 10, 11, 12, 13 or 14 of Part 2 of Schedule 1;

"protected category event" means an event specified in regulation 6(2)(b), (j), (k), (l), (m), (n) or (o);

"relevant course year" means a course year beginning on or after 1st January 2027;

"settled category" means any category of persons described in paragraph 3 or 17 of Part 2 of Schedule 1.

Qualifying person: effect of event during course year

6.—(1) Where an event specified in paragraph (2) occurs during a course year which results in a person falling within Part 2 of Schedule 1 part way through that course year, that person is not a qualifying person in respect of the course year in which the event occurred.

(2) The events are—

(a) the student's course becomes a designated course (as referred to in regulation 7(1)(a));

(b) the student or the student's spouse, civil partner or parent is recognised as a refugee or becomes a person granted stateless leave or a person granted humanitarian protection;

(c) the student becomes a family member described in paragraph 18(1)(a), 19(1)(a), 22(1)(a) or 23(1)(a) in Part 2 of Schedule 1;

(d) the student becomes a person described in paragraph 2 in Part 2 of Schedule 1;

(e) the student becomes a person described in paragraph 3 in Part 2 of Schedule 1;

(f) the student becomes a person described in paragraph 4(1)(a) in Part 2 of Schedule 1;

(g) the student becomes a person described in paragraph 15(1)(a) in Part 2 of Schedule 1;

(h) the student becomes a person described in paragraph 21 in Part 2 of Schedule 1;

(i) the student becomes a person described in paragraph 25(a) in Part 2 of Schedule 1;

(j) the student becomes a person granted section 67 leave;

(k) the student or the student's parent becomes a person granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse;

(l) the student becomes a person granted Calais leave;

(m) the student or the student's parent becomes a person granted indefinite leave to enter or remain as a bereaved partner;

(n) the student or the student's spouse, civil partner or parent becomes a person granted leave under one of the Afghan Schemes;

(o) the student or the student's spouse, civil partner or parent becomes a person granted leave under one of the Ukraine Schemes.

Qualifying course

7.—(1) For the purposes of section 10(6) of the 2017 Act, a "qualifying course" is a higher education course—

(a) which, for the time being, is designated for the purposes of section 22 of the Teaching and Higher Education Act 1998(**a**),

(b) which is provided by a provider, and

(c) which begins on or after 1st January 2027.

(2) In paragraph (1)(a), "designated" means designated by or under the Lifelong Learning (Student Support) (Amendment of Fees and Awards etc.) Regulations 2026(**b**).

PART 3

Fee limits for lifelong learning

Use of the credit-based method for determining the fee limit

8. For the purposes of paragraph 1(3) of Schedule 2 to the 2017 Act, the credit-based method(**c**) is to be used for determining the fee limit applicable to a course year of a qualifying course in all cases.

Attachment of credits

9.—(1) This regulation makes provision about when a course year is to be regarded as having credits attached to it for the purposes of paragraph 1B(1) of Schedule 2 to the 2017 Act.

(2) A course year is to be regarded as having credits attached to it in circumstances where all of the following criteria are met—

(a) the provider has notified the Secretary of State in advance of a course year, or promptly when a change occurs, of the number of credits for which the provider intends to charge—

(i) that are to be regarded as attached to the course year, and

(ii) in the case of a course year containing credit-differentiated activities, that are to be further regarded as attached to the respective credit-differentiated activities;

(b) each attached credit denotes 10 notional learning hours;

(c) the course year is not from a course listed in paragraph (3).

(3) The courses are—

(a) a first degree in medicine;

(b) a graduate entry degree in medicine;

(c) a first degree in dentistry;

(d) a graduate entry degree in dentistry;

(e) a first degree in nursing;

(**a**) 1998 c. 30. Section 22 of the Teaching and Higher Education Act 1998 ("the 1998 Act") was amended by sections 146(1) and (2) and 153 of, and Schedule 11 to, the Learning and Skills Act 2000 (c. 21); section 43(1) and (2) of the Higher Education Act 2004 (c. 8); and section 88(1), (2), (3) and (4) of the 2017 Act; other amendments were made but none is relevant. Section 28A of the 1998 Act, which modifies section 22 of the 1998 Act, was inserted by section 15 of the 2022 Act.

(**b**) S.I. 2026/[…].

(**c**) The credit-based method for determining the fee limit is set out in paragraphs 1A to 1G of Schedule 2 to the 2017 Act.

(f) a first degree in veterinary science;

(g) a graduate entry degree in veterinary science;

(h) a first degree in midwifery;

(i) a postgraduate pre-registration course;

(j) a one year full-time equivalent teacher training course.

(4) Where a course year contains at least one credit-differentiated activity that is not regarded as having credits attached to it, the course year is to be treated as not having credits attached to it.

(5) Where a change to the activities undertaken during a course year occurs during the course year, the notification referred to in paragraph (2)(a) is to be repeated and the fee limit determined afresh in accordance with—

(a) section 10 of, and Schedule 2 to, the 2017 Act, and

(b) these Regulations.

(6) In this regulation—

(a) "allied health profession subject" means chiropody, a dental profession subject, dietetics, dietetics and nutrition, occupational therapy, orthoptics, orthotics and prosthetics, physiotherapy, podiatry, radiography, radiotherapy or speech and language therapy;

(b) "dental profession subject" means dental hygiene, dental therapy and dental hygiene, or dental therapy;

(c) "postgraduate pre-registration course" means an education and training programme leading to a graduate master's degree or a postgraduate diploma which is a condition of inclusion in the register (or, as the case may be, the relevant part or parts of the register) maintained by—

(i) the Health and Care Professions Council, for allied health profession subjects other than dental profession subjects, or

(ii) the Nursing and Midwifery Council, for midwifery or nursing.

(7) This regulation is subject to regulation 17(3).

Foundation years

10.—(1) A "foundation year" is a period of study of 120 credits (or 1,200 notional learning hours), whether in a single course year or otherwise—

(a) that is integrated with an undergraduate course at the start of that course, and may be enrolled for at the same time as enrolling for that undergraduate course,

(b) that is designed to equip students with the skills and knowledge that are needed for progressing to an undergraduate course,

(c) that a student must complete successfully in order to progress to the first year of an undergraduate course,

(d) that may result in the student being awarded a qualification that is separate from the qualification awarded as a result of completing the undergraduate course to which the student progresses, and

(e) that may, where contractual arrangements are in place, be undertaken at an institution (which may or may not be a registered higher education provider) that is different from

the provider to which the student applied and with which the student has enrolled for the undergraduate course.

(2) Schedule 2 lists certain subjects together with their respective Common Aggregated Hierarchy 3 code ("CAH3 code"), as referred to in version 1.3.4 of the Higher Education Classification of Subjects coding system(**a**).

(3) In a foundation year—

(a) "lower fee foundation year study" is study for a foundation year where more than 50% of the CAH3 codes associated with the foundation year (for student loan purposes) are listed in Schedule 2;

(b) "higher fee foundation year study" is study for a foundation year where 50% or less of the CAH3 codes associated with the foundation year (for student loan purposes) are listed in Schedule 2.

(4) Where—

(a) a foundation year is spread over less than one course year (due to being studied in a condensed format) or more than one course year (due to being studied part-time), and

(b) this leads to the student progressing to the first year of the undergraduate course with which the foundation year is integrated part-way through a course year,

the course year that contains an overlap between the foundation year and the first year of the undergraduate course is to be treated as a course year including credit-differentiated activities.

Credit-differentiated activities

11.—(1) This regulation makes provision about "credit-differentiated activities", for the purposes of paragraph 1B(3)(a) of Schedule 2 to the 2017 Act.

(2) A "credit-differentiated activity" is an activity undertaken during a course year which—

(a) is any of the following types of activity—

(i) normal taught study;

(ii) higher fee foundation year study;

(iii) lower fee foundation year study;

(iv) sandwich placement;

(v) study abroad;

(vi) Turing mobility;

(vii) repeat study,

(b) is undertaken in the same course year as at least one other activity referred to in sub-paragraph (a), and

(c) is to be charged for by the provider.

(3) In relation to paragraph (2)(a)(iv), the Secretary of State must publish from time to time in such a manner as the Secretary of State sees fit a list of regulatory bodies that require a mandatory minimum amount of work experience to be undertaken by those whom they regulate.

(**a**) Version 1.3.4 of the Higher Education Classification of Subjects coding system was published digitally on 28th October 2021. A full list of Common Aggregated Hierarchy 3 codes, and the subjects they are associated with, is available at h ttps://.hesa.ac.uk/collection/coding-manual-tools/hecoscahdata/cah. A printed copy can be obtained on request from the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT.

Per-course amount

12.—(1) This regulation makes provision regarding per-course amounts, for use in determining the maximum number of credits and the default number of credits for a course year (under paragraph 1C of Schedule 2 to the 2017 Act).

(2) The "per-course amount" is the limit on the number of credits associated with an activity for which a provider can charge across a course.

(3) The per-course amount for normal taught study (which varies among courses)—

(a) for full courses that are referred to in a list published under regulation 9(1)(a) of the Lifelong Learning (Student Support) (Amendment of Fees and Awards etc.) Regulations 2026, must be published by the Secretary of State;

(b) for full courses listed in Schedule 3 (per-course amounts for other higher education courses), are set out in that Schedule.

(4) Where a course that comes within paragraph (3)(a) also comes within paragraph (3)(b), the per-course amount further to paragraph (3)(a) takes precedence.

(5) There is no per-course amount for repeat study or for modules.

(6) The per-course amount for other activities (which is consistent among courses) is shown in the table below—

Activity	*Per-course amount*
foundation year	120
sandwich placement	120
study abroad	120
Turing mobility	120
intercalated year	120.

(7) This regulation is subject to regulation 16(2).

Per-year amount

13.—(1) This regulation makes provision regarding a per-year amount, for use in determining the maximum number of credits and the default number of credits for a course year (under paragraph 1C of Schedule 2 to the 2017 Act).

(2) The "per-year amount" is the limit on the number of credits associated with a course year that a provider can charge for.

(3) The per-year amount is—

(a) for a course year to which credits are attached, 180;

(b) for a course year to which credits are not attached, as shown in the table below—

Intensity of course year	*Per-year amount*
accelerated[(a)]	180
full-time, where the course year contains activities which cumulatively are 15 or more weeks long	120
part-time, where the course year contains activities which cumulatively are 15 or more weeks long	90

Intensity of course year	*Per-year amount*
full-time, where the course year contains activities which cumulatively are less than 15 weeks long	60
part-time, where the course year contains activities which cumulatively are less than 15 weeks long	45.

[(a)] "accelerated course" is defined in paragraph 4(2) of Schedule 2 to the 2017 Act.

Maximum number of credits

14.—(1) For the purposes of paragraphs 1C and 1D of Schedule 2 to the 2017 Act, this regulation makes provision regarding the maximum number of credits in respect of a course year to which credits are attached(**a**).

(2) In this regulation (but see regulation 9(4))—

(a) paragraphs (3) and (4) make provision in relation to activities other than repeat study;

(b) paragraph (5) makes provision in relation to repeat study;

(c) paragraph (6) makes provision in relation to all activities.

(3) For a course year that does not include credit-differentiated activity, the maximum number of credits is the lower of—

(a) the per-year amount, or

(b) the per-course amount for the activity, less the number of credits from the per-course amount for the activity that were charged for in previous years of the course.

(4) For a course year that includes credit-differentiated activity, in respect of each credit-differentiated activity, the maximum number of credits is the per-course amount for the activity, less the number of credits from that per-course amount that were charged for in previous years of the course.

(5) The maximum number of credits for repeat study is—

(a) where a course year is comprised only of repeat study, 180 credits, or

(b) where repeat study is a credit-differentiated activity undertaken during a course year, the per-year amount less the credits attached to other credit-differentiated activities within the course year.

(6) For the purposes of paragraph 1C(4)(a) of Schedule 2 to the 2017 Act—

(a) the maximum number of credits for the course year is set at 180 credits, and

(b) in the event that the sum of the maximum numbers for all credit-differentiated activities adds up to more than 180 credits, the provider is to decide which credits to charge for up to and including 180 credits.

Default number of credits

15.—(1) For the purposes of paragraphs 1C, 1E and 1F of Schedule 2 to the 2017 Act, this regulation makes provision regarding the default number of credits in respect of a course year where credits are not attached.

(2) In this regulation (but see regulation 9(4))—

(a) paragraphs (3) and (4) make provision in relation to activities other than repeat study;

(**a**) The maximum number of credits is used to determine the chargeable number of credits for the purposes of paragraph 1D of Schedule 2 to the 2017 Act.

(b) paragraph (5) makes provision in relation to repeat study;

(c) paragraph (6) makes provision in relation to all activities.

(3) For a course year that does not include credit-differentiated activity, the default number of credits is the lower of—

(a) the per-year amount, or

(b) the per-course amount for the activity less the number of credits from the per-course amount for the activity that were charged for in previous years of the course.

(4) For a course year that includes credit-differentiated activity, in respect of each credit-differentiated activity, the default number of credits is the lower of—

(a) the per-course amount for the activity less the number of credits from that per-course amount charged for in previous years of the course, or

(b) the number of duration credits for the credit-differentiated activity.

(5) The default number of credits for repeat study is—

(a) where a course year is comprised only of repeat study, the same number of credits as the per-year amount, or

(b) where repeat study is a credit-differentiated activity undertaken during a course year, the per-year amount less the sum of the default numbers for all other credit-differentiated activities within the course year.

(6) For the purposes of paragraph 1C(4)(b) of Schedule 2 to the 2017 Act—

(a) the default number of credits for the course year is set at the same number of credits as the per-year amount, and

(b) in the event that the sum of the default numbers for all credit-differentiated activities adds up to more than the default number of credits for the course year, the provider is to decide which credits to charge for so that the default number of credits for the course year is not exceeded.

(7) In this regulation "duration credits" are a measurement of learning time whereby one week of full-time equivalent study (or 40 notional learning hours) is equivalent to 4 duration credits.

Top-up courses

16.—(1) A "top-up course" is a course that—

(a) involves substantially less learning time than a full course(**a**) leading to the same qualification, and

(b) requires students to have substantial relevant prior learning or experience as part of the entry requirements (which could be, but is not limited to, a qualification in the same field).

(2) The per-course amount for a top-up course is the lower of—

(a) the per-course amount for a full course that leads to the same qualification, or

(b) the number of full-time course years, or in the case of a course that is only offered part-time the number of full-time equivalent years, multiplied by 120.

(3) In the case of top-up courses that are only offered part-time, the number of full-time equivalent years is the number of years that it would take to complete the course if studying 120 credits (or 1,200 notional learning hours) per year.

(**a**) "full course" has the meaning given by section 85(1) of the 2017 Act.

Transfer cases

17.—(1) This regulation makes provision in respect of transfer cases within the meaning of paragraph 1F(2) of Schedule 2 to the 2017 Act(**a**).

(2) Where a student joins a course within the same month as a course year starts, no adjustment to the chargeable number of credits or the default number of credits is required.

(3) Where a student joins a course at any point in the course year following the end of the month in which the course year starts—

(a) the fee limit is to be based on an adjustment of the chargeable number of credits or of the default number of credits (as appropriate), with a reduction in the amount of learning that a student needs to undertake ("relieved learning") to be based on the provider's assessment of the reduction in the amount of learning that the student needs to undertake on account of previous learning undertaken by the student, and

(b) the provider must take account of the relieved learning referred to in sub-paragraph (a) when notifying the Secretary of State under regulation 9(2)(a) of the number of credits for which the provider intends to charge.

Per-credit limits

18.—(1) This regulation makes provision regarding per-credit limits—

(a) for the purposes of paragraph 2 of Schedule 2 to the 2017 Act, where an access and participation plan in relation to the provider is in force or comes into force when the course year begins, and

(b) for the purposes of paragraph 3 of Schedule 2 to the 2017 Act, where such a plan in relation to the provider is not in force and does not come into force when the course year begins.

(2) In this regulation—

(a) paragraph (4) prescribes(**b**) higher amounts for the purposes of paragraph 2(2)(a) of Schedule 2 to the 2017 Act,

(b) paragraph (5) prescribes(**c**) basic amounts for the purposes of paragraph 3(2)(a) of Schedule 2 to the 2017 Act, and

(c) paragraph (6) prescribes floor amounts in respect of the higher or basic amounts to which they relate, for the purposes of paragraphs 2 and 3 respectively of Schedule 2 to the 2017 Act.

(3) The per-credit limits provided for in paragraphs (4) to (6) are to be applied in the form of a fraction when used to determine a fee limit in accordance with these Regulations(**d**).

(4) The higher amounts are—

(a) for course years starting before 1st August 2027—

(i) for normal taught study or higher fee foundation year study, £9,790 / 120 credits;

(ii) for lower fee foundation year study, £5,760 / 120 credits;

(iii) for sandwich placement, £1,955 / 120 credits;

(**a**) The effect of this regulation is to relieve a student of the need to undertake part of a course, because of activity undertaken by the student other than as part of that course.
(**b**) "prescribed" has the meaning given by paragraph 2(13) of Schedule 2 to the 2017 Act.
(**c**) "prescribed" has the meaning given by paragraph 3(12) of Schedule 2 to the 2017 Act.
(**d**) This approach is necessary because calculating the fee limit using decimal places before a per-credit limit is applied (using the steps provided for in paragraph 1D or 1E of Schedule 2 to the 2017 Act) would lead to a different outcome due to the decimal place needing to be rounded too soon.

(iv) for study abroad or Turing mobility, £1,465 / 120 credits;

(b) for course years starting on or after 1st August 2027—

(i) for normal taught study or higher fee foundation year study, £10,050 / 120 credits;

(ii) for lower fee foundation year study, £5,760 / 120 credits;

(iii) for sandwich placement, £2,010 / 120 credits;

(iv) for study abroad or Turing mobility, £1,505 / 120 credits.

(5) The basic amounts are—

(a) for course years starting before 1st August 2027—

(i) for normal taught study or higher fee foundation year study, £6,525 / 120 credits;

(ii) for lower fee foundation year study, £3,835 / 120 credits;

(iii) for sandwich placement, £1,305 / 120 credits;

(iv) for study abroad or Turing mobility, £975 / 120 credits;

(b) for course years starting on or after 1st August 2027—

(i) for normal taught study or higher fee foundation year study, £6,695 / 120 credits;

(ii) for lower fee foundation year study, £3,835 / 120 credits;

(iii) for sandwich placement, £1,335 / 120 credits;

(iv) for study abroad or Turing mobility, £1,000 / 120 credits.

(6) The floor amounts are—

(a) in respect of the higher amounts for course years starting before 1st August 2027 to which they relate—

(i) for normal taught study or higher fee foundation year study, £9,525 / 120 credits;

(ii) for lower fee foundation year study, £5,605 / 120 credits;

(iii) for sandwich placement, £1,905 / 120 credits;

(iv) for study abroad or Turing mobility, £1,425 / 120 credits;

(b) in respect of the higher amounts for course years starting on or after 1st August 2027 to which they relate—

(i) for normal taught study or higher fee foundation year study, £9,780 / 120 credits;

(ii) for lower fee foundation year study, £5,605 / 120 credits;

(iii) for sandwich placement, £1,955 / 120 credits;

(iv) for study abroad or Turing mobility, £1,465 / 120 credits;

(c) in respect of the basic amounts for course years starting before 1st August 2027 to which they relate—

(i) for normal taught study or higher fee foundation year study, £6,350 / 120 credits;

(ii) for lower fee foundation year study, £3,735 / 120 credits;

(iii) for sandwich placement, £1,270 / 120 credits;

(iv) for study abroad or Turing mobility, £950 / 120 credits;

(d) in respect of the basic amounts for course years starting on or after 1st August 2027 to which they relate—

(i) for normal taught study or higher fee foundation year study, £6,520 / 120 credits;

(ii) for lower fee foundation year study, £3,735 / 120 credits;

(iii) for sandwich placement, £1,300 / 120 credits;

(iv) for study abroad or Turing mobility, £975 / 120 credits.

(7) The per-credit limit for repeat study is the same as the per-credit limit for whichever activity within the course is being repeated.

PART 4

Consequential Amendment

Consequential Amendment of the Higher Education (Fee Limit Condition) (England) Regulations 2017

19. In the Higher Education (Fee Limit Condition) (England) Regulations 2017, in regulation 7, after paragraph (1) insert—

"(1ZA) In paragraph (1)(a), "designated" means designated by or under the Education (Student Support) Regulations 2011(**a**)".

Name
Minister of State
Department for Education

Date

(**a**) S.I. 2011/1986.

SCHEDULES

SCHEDULE 1

Regulations 3, 5 and 6

Qualifying persons

PART 1

Interpretation

1.—(1) In this Schedule—

"the 2020 Citizens' Rights Regulations" means the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020(**a**);

"Directive 2004/38" means Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely in the territory of the Member States(**b**);

"EEA EFTA separation agreement" has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020(**c**);

"EEA frontier self-employed person" means an EEA national who—

(a) is a self-employed person in the United Kingdom, and

(b) resides in Switzerland or the territory of an EEA state and returns to their residence in Switzerland or that EEA state daily or at least once a week;

"EEA frontier worker" means an EEA national who—

(a) is a worker in the United Kingdom; and

(b) resides in Switzerland or the territory of an EEA state and returns to their residence in Switzerland or that EEA state daily or at least once a week;

"EEA migrant worker" means an EEA national who is a worker, other than an EEA frontier worker, in the United Kingdom;

"EEA national" means a national of an EEA state;

"EEA self-employed person" means an EEA national who is a self-employed person, other than an EEA frontier self-employed person, in the United Kingdom;

"employed" refers to full-time or part-time employment;

"employed person" means an employed person within the meaning of Annex 1 to the Swiss Agreement;

"EU national" means a national of a member State;

"EU overseas territories" means Faroe Islands; French Polynesia; French Southern and Antarctic Territories; Mayotte; Greenland; the Caribbean part of the Kingdom of the Netherlands (Aruba, Bonaire, Curaçao, Saba, Sint Eustatius, Sint Maarten); St Barthélemy;

(**a**) S.I. 2020/1209.
(**b**) OJ No. L 158, 30.04.04, p.77.
(**c**) 2020 c. 1.

St Pierre et Miquelon; the Territory of New Caledonia and Dependencies; and Wallis and Futuna;

"European Economic Area" means the area comprised by the EEA states;

"family member" means—

(a) in relation to an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person, an EEA self-employed person, or a relevant person of Northern Ireland who is treated as an EEA migrant worker or an EEA self-employed person by virtue of paragraph 15(3)—

(i) the person's spouse or civil partner,

(ii) direct descendants of the person or of the person's spouse or civil partner who are—

(aa) under 21 years of age, or

(bb) dependants of the person or the person's spouse or civil partner, or

(iii) dependent direct relatives in the ascending line of the person or that of the person's spouse or civil partner;

(b) in relation to a Swiss employed person, a Swiss frontier employed person, a Swiss frontier self-employed person or a Swiss self-employed person—

(i) the person's spouse or civil partner, or

(ii) the person's child or the child of that person's spouse or civil partner;

(c) in relation to an EU national who falls within Article 7(1)(b) of Directive 2004/38 or, for the purposes of paragraph 18, in relation to a relevant person of Northern Ireland who would fall within Article 7(1)(b) of Directive 2004/38 if that person were an EU national or solely an EU national—

(i) the person's spouse or civil partner,

(ii) direct descendants of the person or of the person's spouse or civil partner who are—

(aa) under 21 years of age, or

(bb) dependants of the person or the person's spouse or civil partner, or

(iii) dependent direct relatives in the person's ascending line or that of the person's spouse or civil partner;

(d) in relation to an EU national who falls within Article 7(1)(c) of Directive 2004/38 or, for the purposes of paragraph 18, in relation to a relevant person of Northern Ireland who would fall within Article 7(1)(c) of Directive 2004/38 if that person were an EU national or solely an EU national—

(i) the person's spouse or civil partner, or

(ii) direct descendants of the person or of the person's spouse or civil partner who are—

(aa) under 21 years of age, or

(bb) dependants of the person or the person's spouse or civil partner;

(e) in relation to a United Kingdom national, for the purposes of paragraphs 19 and 23, and for the purposes of paragraphs 21 and 22 in relation to a person settled in the United Kingdom—

(i) the person's spouse or civil partner, or

(ii) direct descendants of the person or the person's spouse or civil partner who are—

(aa) under 21 years of age, or

(bb) dependants of the person or the person's spouse or civil partner;

"leave application date", unless otherwise indicated, means the date on which the person made an application to remain in the United Kingdom;

"overseas territories" means Anguilla; Bermuda; British Antarctic Territory; British Indian Ocean Territory; British Virgin Islands; the Caribbean part of the Kingdom of the Netherlands (Aruba, Bonaire, Curaçao, Saba, Sint Eustatius, Sint Maarten); Cayman Islands; Falkland Islands; Faroe Islands; French Polynesia; French Southern and Antarctic Territories; Gibraltar; Mayotte; Greenland; Montserrat; Pitcairn, Henderson, Ducie and Oeno Islands; South Georgia and the South Sandwich Islands; St Barthélemy; St Helena, Ascension and Tristan da Cunha; St Pierre et Miquelon; the Territory of New Caledonia and Dependencies; Turks and Caicos Islands; and Wallis and Futuna;

"parent" means a parent, guardian or any other person having parental responsibility for a child, and "child" is to be construed accordingly;

"person with protected rights" means a person within either of the following paragraphs—

(a) a person within the personal scope of the citizens' rights provisions who—

(i) has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules,

(ii) is an Irish citizen who, pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom,

(iii) is an applicant for the purposes of regulation 4 of the 2020 Citizens' Rights Regulations where the relevant period has not expired, or

(iv) otherwise has rights deemed to apply by virtue of any of the following (provisions regarding the issuance of residence documents)—

(aa) Article 18(2) and (3) of the EU withdrawal agreement,

(bb) Article 17(2) and (3) of the EEA EFTA separation agreement, or

(cc) Article 16(2) and (3) of the Swiss citizens' rights agreement;

(b) a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules;

"relevant period" has the meaning given by regulation 4 of the 2020 Citizens' Rights Regulations;

"relevant person of Northern Ireland" has the meaning given by residence scheme immigration rules;

"residence scheme immigration rules" has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;

"self-employed person" means—

(a) in relation to an EEA national, a person who is self-employed within the meaning of Article 7 of Directive 2004/38 or the EEA agreement, as the case may be, or

(b) in relation to a Swiss national, a person who is a self-employed person within the meaning of Annex 1 to the Swiss Agreement;

"settled in the United Kingdom" has the meaning given by section 33(2A) of the Immigration Act 1971;

"specified British overseas territories" means Anguilla; Bermuda; British Antarctic Territory; British Indian Ocean Territory; British Virgin Islands; Cayman Islands; Falkland Islands; Gibraltar; Montserrat; Pitcairn, Henderson, Ducie and Oeno Islands; South Georgia and the South Sandwich Islands; St Helena, Ascension and Tristan da Cunha; and Turks and Caicos Islands;

"Swiss Agreement" means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons signed at Luxembourg on 21st June 1999 and which came into force on 1st June 2002;

"Swiss citizens' rights agreement" has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;

"Swiss employed person" means a Swiss national who is an employed person, other than a Swiss frontier employed person, in the United Kingdom;

"Swiss frontier employed person" means a Swiss national who—

(a) is an employed person in the United Kingdom, and

(b) resides in Switzerland or in the territory of an EEA state and returns to their residence in Switzerland or that EEA state daily or at least once a week;

"Swiss frontier self-employed person" means a Swiss national who—

(a) is a self-employed person in the United Kingdom, and

(b) resides in Switzerland or in the territory of an EEA state and returns to their residence in Switzerland or that EEA state daily or at least once a week;

"Swiss self-employed person" means a Swiss national who is a self-employed person, other than a Swiss frontier self-employed person, in the United Kingdom;

"United Kingdom national" has the meaning given by Article 2(d) of the EU withdrawal agreement;

"worker" means a worker within the meaning of Article 7 of Directive 2004/38 or the EEA agreement, as the case may be.

(2) For the purposes of this Schedule—

(a) a reference to a "Member State" or "State" in Article 7 of Directive 2004/38 is to be read as including the United Kingdom;

(b) a person is within the personal scope of the citizens' rights provisions if that person falls within any of the following (provisions regarding personal scope of the agreement)—

(i) Article 10 of the EU withdrawal agreement,

(ii) Article 9 of the EEA EFTA separation agreement, or

(iii) Article 10 of the Swiss citizens' rights agreement.

(3) In this Schedule, an area other than the United Kingdom or Gibraltar which—

(a) was previously not part of the European Union or the European Economic Area, and

(b) at any time before or after these Regulations come into force has become part of one or the other or both of those areas,

is to be considered to have always been a part of the European Economic Area.

(4) For the purposes of this Schedule—

(a) a person ("A") is to be treated as being ordinarily resident in a territory referred to in sub-paragraph (5) if A would have been so resident but for the fact that—

(i) A,

(ii) A's spouse or civil partner,

(iii) A's parent, or

(iv) in the case of a dependent direct relative in the ascending line, A's child or child's spouse or civil partner,

is or was temporarily employed outside the area in question;

(b) a person is not to be treated as ordinarily resident in a place unless they lawfully reside in that place.

(5) For the purposes of sub-paragraph (4)—

(a) the territories are—

(i) the United Kingdom;

(ii) the United Kingdom and the Islands;

(iii) the territory comprising the United Kingdom, the Islands and the Republic of Ireland;

(iv) the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland;

(v) the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories;

(vi) the territory comprising the United Kingdom, the Islands and the specified British overseas territories;

(vii) the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories;

(b) "temporarily employed" includes, in the cases of members of the regular naval, military or air forces of—

(i) the Crown, any period which they serve outside the United Kingdom as members of such forces;

(ii) the Republic of Ireland, any period which they serve outside the territory comprising the United Kingdom, the Islands and the Republic of Ireland as members of such forces;

(iii) an EEA state or Switzerland, any period which they serve outside the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland as members of such forces;

(iv) Turkey, any period which they serve outside the territory comprising the United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey as members of such forces.

PART 2

Qualifying person: categories

Persons who are settled in the United Kingdom

2.—(1) A person—

(a) who—

(i) is settled in the United Kingdom and does not fall within paragraph 4,

(ii) is ordinarily resident in the United Kingdom on the first day of the first course year of the course, and

(iii) has been ordinarily resident in the United Kingdom and the Islands throughout the three-year period preceding the first day of the first course year of the course, and

(b) subject to sub-paragraph (2), whose residence in the United Kingdom and the Islands has not during any part of the period referred to in paragraph (a)(iii) been wholly or mainly for the purpose of receiving full-time education.

(2) Sub-paragraph (1)(b) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and the Islands in accordance with paragraph 1(4).

3.—(1) A person—

(a) who—

(i) is settled in the United Kingdom and does not fall within paragraph 4,

(ii) is ordinarily resident in the United Kingdom on the course start date, and

(iii) has been ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland throughout the three-year period preceding the first day of the first course year of the course, and

(b) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, the Islands and the Republic of Ireland has not during any part of the period referred to in paragraph (a)(iii) been wholly or mainly for the purpose of receiving full-time education.

(2) Sub-paragraph (1)(b) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland in accordance with paragraph 1(4).

4.—(1) A person who—

(a) comes within one of the following four sub-paragraphs—

(i) the person is within the personal scope of the citizens' rights provisions and is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;

(ii) the person—

(aa) is within the personal scope of the citizens' rights provisions,

(bb) is an Irish citizen settled in the United Kingdom who, pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom, and

(cc) would meet the eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules if that person were to make an application for such leave;

(iii) the person—

(aa) is within the personal scope of the citizens' rights provisions,

(bb) is an applicant for the purposes of regulation 4 of the 2020 Citizens' Rights Regulations or otherwise has rights deemed to apply by virtue of any of the citizens' rights provisions specified in sub-paragraph (3), and

(cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016(**a**), as those Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations in relation to that person during the relevant period, or otherwise has a deemed right of permanent residence by virtue of any of the citizens' rights provisions specified in sub-paragraph (3);

(iv) the person is a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules,

(b) is ordinarily resident in the United Kingdom on the first day of the first course year of the course,

(c) has been ordinarily resident in the United Kingdom and the Islands throughout the three-year period preceding the first day of the first course year of the course, and

(d) in a case where the ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories immediately before the period of ordinary residence referred to in paragraph (c).

(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), "eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules" means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules.

(3) For the purposes of sub-paragraph (1)(a)(iii)(bb) and (cc), "citizens' rights provisions" means any of the following (provisions regarding the issuance of residence documents)—

(a) Article 18(3) of the EU withdrawal agreement,

(b) Article 17(3) of the EEA EFTA separation agreement, or

(c) Article 16(3) of the Swiss citizens' rights agreement.

Refugees and their family members

5.—(1) A person who—

(a) is a refugee,

(b) is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since the person was recognised as a refugee, and

(c) is ordinarily resident in the United Kingdom on the course start date.

(2) A person who—

(a) is the spouse or civil partner of a refugee,

(b) was the spouse or civil partner of the refugee on the date on which the refugee applied for asylum ("the asylum application date"),

(c) is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom, and

(d) is ordinarily resident in the United Kingdom on the course start date.

(3) A person who—

(**a**) S.I. 2016/1052.

(a) is the child of a refugee or the child of the spouse or civil partner of a refugee,

(b) on the asylum application date, was the child of the refugee or the child of a person who was the spouse or civil partner of the refugee on that date,

(c) was under 18 years of age on the asylum application date,

(d) is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom, and

(e) is ordinarily resident in the United Kingdom on the course start date.

Persons granted stateless leave and their family members

6.—(1) A person granted stateless leave, who is ordinarily resident in the United Kingdom on the course start date.

(2) A person—

(a) who—

(i) is the spouse or civil partner of a person granted stateless leave, and

(ii) on the leave application date, was the spouse or civil partner of the person granted stateless leave,

(b) who is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom, and

(c) who is ordinarily resident in the United Kingdom on the course start date.

(3) A person—

(a) who—

(i) is the child of a person granted stateless leave or the child of the spouse or civil partner of a person granted stateless leave, and

(ii) on the leave application date, was the child of a person granted stateless leave or the child of a person who, on the leave application date, was the spouse or civil partner of a person granted stateless leave,

(b) who was under 18 years of age on the leave application date,

(c) who is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom, and

(d) who is ordinarily resident in the United Kingdom on the course start date.

Persons granted section 67 leave

7. A person granted section 67 leave, who is ordinarily resident in the United Kingdom on the course start date.

Persons granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse and their children

8.—(1) A person granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse, who is ordinarily resident in the United Kingdom on the course start date.

(2) A person granted indefinite leave to enter or remain—

(a) who—

(i) is the child of a person granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse, and

(ii) on the leave application date, was the child of the person granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse,

(b) who was under the age of 18 on the leave application date,

(c) who has been ordinarily resident in the United Kingdom and the Islands since the person was granted such leave, and

(d) who is ordinarily resident in the United Kingdom on the course start date.

(3) In this paragraph, "leave application date" means the date on which a person granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse made an application to remain in the United Kingdom on those grounds under the immigration rules.

Persons granted Calais leave

9. A person granted Calais leave, who is ordinarily resident in the United Kingdom on the course start date.

Persons granted indefinite leave to enter or remain as a bereaved partner and their children

10.—(1) A person granted indefinite leave to enter or remain as a bereaved partner, who is ordinarily resident in the United Kingdom on the course start date.

(2) A person granted indefinite leave to enter or remain—

(a) who—

(i) is the child of a person granted indefinite leave to enter or remain as a bereaved partner, and

(ii) on the leave application date, was the child of the person granted indefinite leave to enter or remain as a bereaved partner,

(b) who was under the age of 18 on the leave application date,

(c) who has been ordinarily resident in the United Kingdom and the Islands since the person was granted such leave, and

(d) who is ordinarily resident in the United Kingdom on the course start date.

(3) In this paragraph, "leave application date" means the date on which a person granted indefinite leave to enter or remain as a bereaved partner made an application to enter or remain in the United Kingdom on those grounds—

(a) under the immigration rules, or

(b) in the case of a person referred to in sub-paragraph (a)(vii) of the definition of "person granted indefinite leave to enter or remain as a bereaved partner" in regulation 3, outside the immigration rules.

Persons granted leave under one of the Afghan Schemes and their family members

11.—(1) A person granted leave under one of the Afghan Schemes, who is ordinarily resident in the United Kingdom on the course start date.

(2) A person who—

(a) is the spouse or civil partner of a person granted leave under one of the Afghan Schemes,

(b) on the leave application date, was the spouse or civil partner of that person,

(c) is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom, and

(d) is ordinarily resident in the United Kingdom on the course start date.

(3) A person who—

(a) is—

(i) the child of a person granted leave under one of the Afghan Schemes, or

(ii) the child of the spouse or civil partner of a person granted leave under one of the Afghan Schemes,

(b) on the leave application date, was—

(i) the child of the person granted leave under one of the Afghan Schemes, or

(ii) the child of a person who was the spouse or civil partner of the person granted leave under one of the Afghan Schemes on that date,

(c) was under 18 years of age on the leave application date,

(d) is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom, and

(e) is ordinarily resident in the United Kingdom on the course start date.

(4) In this paragraph, "leave application date" means the date on which the person granted leave under one of the Afghan Schemes made an application for leave to enter or remain in the United Kingdom.

Evacuated or assisted British nationals from Afghanistan

12.—(1) An evacuated or assisted British national from Afghanistan who is ordinarily resident in the United Kingdom on the course start date.

(2) In this paragraph, "evacuated or assisted British national from Afghanistan" means a person—

(a) who is a British citizen, a British overseas territories citizen, a British National (Overseas), a British Overseas citizen, a British subject under the British Nationality Act 1981(**a**) or a British protected person within the meaning of that Act,

(b) who was either—

(i) evacuated from Afghanistan by or on behalf of the United Kingdom, a North Atlantic Treaty Organisation member state, Pakistan, Uzbekistan, Tajikistan, Iran or Qatar during the period of the operation known as Operation Pitting, which began on 14th August 2021 and ended on 28th August 2021, or

(ii) assisted by or on behalf of the United Kingdom, after 28th August 2021 and before 6th January 2022, to leave Afghanistan, and

(c) who has been ordinarily resident in the United Kingdom and the Islands since they were evacuated from or otherwise left Afghanistan.

Persons granted leave under one of the Ukraine Schemes and their family members

13.—(1) A person granted leave under one of the Ukraine Schemes, who is ordinarily resident in the United Kingdom on the course start date.

(2) A person who—

(a) is the spouse or civil partner of a person granted leave under one of the Ukraine Schemes,

(b) on the leave application date, was the spouse or civil partner of that person,

(c) is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom, and

(**a**) 1981 c. 61.

(d) is ordinarily resident in the United Kingdom on the course start date.

(3) A person who—

(a) is—

(i) the child of a person granted leave under one of the Ukraine Schemes, or

(ii) the child of the spouse or civil partner of a person granted leave under one of the Ukraine Schemes,

(b) on the leave application date, was—

(i) the child of the person granted leave under one of the Ukraine Schemes, or

(ii) the child of a person who was the spouse or civil partner of the person granted leave under one of the Ukraine Schemes on that date,

(c) was under 18 years of age on the leave application date,

(d) is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom, and

(e) is ordinarily resident in the United Kingdom on the course start date.

(4) In this paragraph, "leave application date" means the date on which the person granted leave under one of the Ukraine Schemes made an application for leave to enter or remain in the United Kingdom.

Persons granted humanitarian protection and their family members

14.—(1) A person granted humanitarian protection, who is ordinarily resident in the United Kingdom on the course start date.

(2) A person who—

(a) is the spouse or civil partner of a person granted humanitarian protection,

(b) was the spouse or civil partner of the person granted humanitarian protection on the date on which that person applied for asylum ("the asylum application date"),

(c) is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom, and

(d) is ordinarily resident in the United Kingdom on the course start date.

(3) A person who—

(a) is the child of a person granted humanitarian protection or the child of the spouse or civil partner of a person granted humanitarian protection,

(b) on the asylum application date, was the child of that person or the child of a person who was the spouse or civil partner of the person granted humanitarian protection on that date,

(c) was under 18 years of age on the asylum application date,

(d) is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom, and

(e) is ordinarily resident in the United Kingdom on the course start date.

Workers, employed persons, self-employed persons and their family members

15.—(1) A person with protected rights, or a frontier worker within the meaning of regulation 3 of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020(**a**), who—

(**a**) S.I. 2020/1213.

(a) is—

(i) an EEA migrant worker or an EEA self-employed person,

(ii) a Swiss employed person or a Swiss self-employed person,

(iii) a family member of a person mentioned in sub-paragraph (i) or (ii),

(iv) an EEA frontier worker or an EEA frontier self-employed person,

(v) a Swiss frontier employed person or a Swiss frontier self-employed person, or

(vi) a family member of a person mentioned in sub-paragraph (iv) or (v),

(b) subject to sub-paragraph (2), is ordinarily resident in the United Kingdom on the first day of the first course year of the course, and

(c) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first course year of the course.

(2) Sub-paragraph (1)(b) does not apply where the person falls within sub-paragraph (1)(a)(iv), (v) or (vi).

(3) In this paragraph, a description of a person in sub-paragraph (1)(a)(i) is to be read as if it includes a relevant person of Northern Ireland who would, if that person were an EEA national or solely an EEA national, be an EEA migrant worker or an EEA self-employed person.

16.—(1) A person with protected rights who—

(a) is ordinarily resident in the United Kingdom on the first day of the first course year of the course,

(b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first course year of the course, and

(c) is entitled to support by virtue of Article 10 of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union ("the Workers Regulation")(**a**), as it had effect immediately before IP completion day, as extended by the EEA agreement, as it had effect immediately before IP completion day.

(2) For the purposes of sub-paragraph (1)(c), in Article 10 of the Workers Regulation—

(a) the reference to a "national of a Member State" is to be read as including a relevant person of Northern Ireland, and

(b) the reference to "another Member State" is to be read as if it includes the United Kingdom, and the references to "that State" construed accordingly.

Persons who are settled in the United Kingdom and have exercised a right of residence elsewhere

17.—(1) A person who—

(a) is settled in the United Kingdom,

(b) was ordinarily resident in the United Kingdom and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence before IP completion day,

(**a**) OJ No. L 141, 27.05.2011, p.1, amended by Regulation (EU) 2016/589 of the European Parliament and of the Council of 13 April 2016 (OJ No. L 107, 22.4.2016, p. 1) and Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 (OJ No. L 186, 11.7.2019, p. 21).

(c) was ordinarily resident immediately before IP completion day—

(i) in the territory comprising the European Economic Area, Switzerland and the overseas territories, or

(ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area, Switzerland and the overseas territories,

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the period beginning on IP completion day and ending immediately before the first day of the first course year of the course,

(d) is ordinarily resident in the United Kingdom on the course start date,

(e) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first course year of the course, and

(f) in a case where the person's ordinary residence referred to in paragraph (e) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (e).

(2) For the purposes of this paragraph, a person has exercised a right of residence—

(a) if the person is a United Kingdom national, is a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA agreement or Swiss Agreement), or a person who had the right of permanent residence, who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA agreement or Swiss Agreement in a state other than the United Kingdom, or

(b) in the case of a person who is settled in the United Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

(3) For the purposes of sub-paragraph (2), a person had the right of permanent residence if they had a right which arose under Directive 2004/38 to reside permanently in the United Kingdom without restriction.

EU nationals etc

18.—(1) A person with protected rights—

(a) who is—

(i) an EU national on the first day of the first course year of the course,

(ii) a family member of a person mentioned in sub-paragraph (i), or

(iii) a family member of a relevant person of Northern Ireland,

(b) who is undertaking the course in the United Kingdom,

(c) who, subject to sub-paragraph (2), has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first course year of the course, and

(d) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Sub-paragraph (1)(c) does not apply to a family member of a person who—

(a) is an EU national or a relevant person of Northern Ireland, and

(b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first course year of the course.

(3) Sub-paragraph (1)(d) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories in accordance with paragraph 1(4).

United Kingdom nationals

19.—(1) A person—

(a) who is—

(i) a United Kingdom national on the first day of a course year of the course, or

(ii) a family member of a person mentioned in sub-paragraph (i),

(b) who was ordinarily resident immediately before IP completion day—

(i) in the territory comprising the European Economic Area, Switzerland and the EU overseas territories, or

(ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area, Switzerland and the EU overseas territories,

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the EU overseas territories throughout the period beginning on IP completion day and ending immediately before the first day of the first course year of the course,

(c) who is undertaking the course in the United Kingdom,

(d) who, subject to sub-paragraph (2), has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first course year of the course, and

(e) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories has not during any part of the period referred to in paragraph (d) been wholly or mainly for the purpose of receiving full-time education.

(2) Sub-paragraph (1)(d) does not apply to the family member of a United Kingdom national, where the United Kingdom national—

(a) had, before IP completion day, exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38, and

(b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first course year of the course.

(3) Sub-paragraph (1)(e) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories in accordance with paragraph 1(4).

(4) Where a person ("P") falls within sub-paragraph (1)(a)(ii), the person in relation to whom P is a family member must also meet the requirements of sub-paragraph (1)(b) and (d).

20.—(1) A person—

(a) who is an Irish citizen on the first day of a course year of the course,

(b) who was ordinarily resident immediately before IP completion day—

(i) in the territory comprising the European Economic Area, Switzerland and the EU overseas territories, or

(ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area, Switzerland and the EU overseas territories,

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the EU overseas territories throughout the period beginning on IP completion day and ending immediately before the first day of the first course year of the course,

(c) who is undertaking the course in the United Kingdom,

(d) who has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first course year of the course, and

(e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories has not during any part of the period referred to in paragraph (d) been wholly or mainly for the purpose of receiving full-time education.

(2) Sub-paragraph (1)(e) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories in accordance with paragraph 1(4).

21.—(1) A person—

(a) who is—

(i) settled in the United Kingdom,

(ii) a family member of a person who is settled in the United Kingdom, where they (the family member) would be settled in the United Kingdom if they were ordinarily resident in the United Kingdom, or

(iii) a British citizen and who—

(aa) was born in the British Indian Ocean Territory or, prior to 8th November 1965, in those islands designated as the British Indian Ocean Territory on that date, or

(bb) is a direct descendant of a person who was born in the British Indian Ocean Territory or, prior to 8th November 1965, in those islands designated as the British Indian Ocean Territory on that date,

(b) who is undertaking the course in the United Kingdom,

(c) who has been ordinarily resident in the specified British overseas territories for at least part of the three-year period preceding the first day of the first course year of the course,

(d) who has been ordinarily resident in the territory comprising the United Kingdom, the Islands and the specified British overseas territories throughout the three-year period preceding the first day of the first course year of the course, and

(e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, the Islands and the specified British overseas territories has not during any part of the period referred to in paragraph (d) been wholly or mainly for the purpose of receiving full-time education.

(2) Sub-paragraph (1)(e) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the Islands and the specified British overseas territories in accordance with paragraph 1(4).

(3) For the purposes of paragraphs (c) and (d) of sub-paragraph (1), a person mentioned in sub-paragraph (1)(a)(iii) is treated as being ordinarily resident in the specified British overseas territories in any period before the first day of the first course year of the course in which they are not ordinarily resident in the United Kingdom or the Islands.

(4) Sub-paragraph (1)(e) does not apply to a person mentioned in sub-paragraph (1)(a)(iii).

22.—(1) A person—

(a) who is a family member of a person who is settled in the United Kingdom on the first day of the first course year of the course,

(b) who is undertaking the course in the United Kingdom,

(c) who has been ordinarily resident in the United Kingdom and the Islands throughout the three-year period preceding the first day of the first course year of the course, and

(d) subject to sub-paragraph (2), whose ordinary residence in the United Kingdom and the Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Sub-paragraph (1)(d) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and the Islands in accordance with paragraph 1(4).

Persons resident in Gibraltar

23.—(1) A person—

(a) who is—

(i) a United Kingdom national who has resident status in Gibraltar granted by the Government of Gibraltar,

(ii) a family member of a United Kingdom national, where that family member has resident status in Gibraltar granted by the Government of Gibraltar,

(iii) an EU national who has a right of residence in Gibraltar arising under the EU withdrawal agreement, or

(iv) a family member of an EU national, where that family member has a right of residence in Gibraltar arising under the EU withdrawal agreement,

(b) who is undertaking the course in the United Kingdom,

(c) who, subject to sub-paragraph (2), has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first course year of the course, and

(d) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories

has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Sub-paragraph (1)(c) does not apply to a family member of a person who—

(a) is an EU national or a relevant person of Northern Ireland, and

(b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first course year of the course.

(3) Sub-paragraph (1)(d) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories in accordance with paragraph 1(4).

EU nationals ordinarily resident in the United Kingdom and the Islands

24. A person with protected rights who—

(a) is an EU national on the first day of the first course year of the course,

(b) is ordinarily resident in the United Kingdom on the first day of the first course year of the course,

(c) has been ordinarily resident in the United Kingdom and the Islands throughout the three-year period immediately preceding the first day of the first course year of the course, and

(d) in a case where the person's ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories immediately before the period of ordinary residence referred to in paragraph (c).

Children of Swiss nationals

25. A person with protected rights who—

(a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 18(2) of the Swiss citizens' rights agreement,

(b) is ordinarily resident in the United Kingdom on the first day of the first course year of the course,

(c) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first course year of the course, and

(d) in a case where the person's ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).

Children of Turkish workers

26.—(1) A person who—

(a) is the child of a Turkish worker ("T"), where T was ordinarily resident in the United Kingdom immediately before IP completion day,

(b) immediately before IP completion day—

(i) was the child of T, and

(ii) was ordinarily resident in the United Kingdom,

(c) is ordinarily resident in the United Kingdom on the first day of the first course year of the course, and

(d) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories throughout the three-year period preceding the first day of the first course year of the course.

(2) For the purposes of paragraph (1), "Turkish worker" means a Turkish national who—

(a) is ordinarily resident in the United Kingdom, and

(b) is, or has been, lawfully employed in the United Kingdom.

Long residence

27.—(1) A person who on the first day of the first course year of the course—

(a) is either—

(i) under 18 years of age and has lived in the United Kingdom throughout the seven-year period preceding the first day of the first course year of the course, or

(ii) is 18 years of age or above and, preceding the first day of the first course year of the course, has lived in the United Kingdom throughout either—

(aa) half their life, or

(bb) a period of twenty years,

(b) is ordinarily resident in the United Kingdom,

(c) has been ordinarily resident in the United Kingdom and the Islands throughout the three-year period preceding the first day of the first course year of the course, and

(d) has not been resident in the United Kingdom and the Islands during any part of the period referred to in paragraph (c) wholly or mainly for the purpose of receiving full-time education.

(2) Sub-paragraph (1)(d) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and the Islands in accordance with paragraph 1(4).

SCHEDULE 2

Regulation 10

CAH3 codes for determining foundation year fee

CAH3 version 1.3.4 subject name	*CAH3 version 1.3.4 subject code*
rural estate management	06-01-04
social sciences (non-specific)	15-01-01
sociology	15-01-02
social policy	15-01-03
anthropology (excluding forensic anthropology)	15-01-04
development studies	15-01-05
cultural studies	15-01-06
economics	15-02-01
politics	15-03-01
social work	15-04-01
childhood and youth studies	15-04-02
law	16-01-01

CAH3 version 1.3.4 subject name	*CAH3 version 1.3.4 subject code*
business and management (non-specific)	17-01-01
business studies	17-01-02
marketing	17-01-03
management studies	17-01-04
human resource management	17-01-05
finance	17-01-07
accounting	17-01-08
others in business and management	17-01-09
English studies (non-specific)	19-01-01
English language	19-01-02
literature in English	19-01-03
studies of specific authors	19-01-04
creative writing	19-01-05
others in English studies	19-01-06
linguistics	19-01-07
Celtic studies (non-specific)	19-02-01
Gaelic studies	19-02-02
Welsh studies	19-02-03
others in Celtic studies	19-02-04
American and Australasian studies	19-04-08
history	20-01-01
history of art, architecture and design	20-01-02
heritage studies	20-01-04
classics	20-01-05
philosophy	20-02-01
theology and religious studies	20-02-02
education	22-01-01
teacher training	22-01-02
combined, general or negotiated studies	23-01-01
personal development	23-01-02
humanities (non-specific)	23-01-03
liberal arts (non-specific)	23-01-04
publicity studies	24-01-02

SCHEDULE 3

Regulation 12

Per-course amounts for other higher education courses

Course type	*Per-course amount*
Architecture course: A first degree course leading to a postgraduate qualification accredited by the Architects Registration Board.	600
Bachelor Degree: A first degree course leading to the qualification “bachelor’s degree”, meaning an ordinary (non-honours) degree. This is a separate course type to the Bachelor’s degree with Honours, and not a classification of an Honours degree.	300

Bachelor Degree with Honours, where either: a) the course contains at least 4,800 notional learning hours and has a full-time equivalent duration of at least 4 full-time years, excluding qualifying periods of foundation year, repeat study, sandwich placement, study abroad, Turing mobility or intercalated year, or b) the course has no full-time equivalent, but the course has a minimum of 480 credits attached to it, excluding credits assigned to qualifying periods of foundation year, repeat study, sandwich placement, study abroad, Turing mobility or intercalated year - with each credit equalling 10 notional learning hours, in compliance with expectations and guidelines set out by the relevant regulatory body (meaning the regulatory body that sets expectations regarding the use of credits in higher education).	480
Bachelor Degree with Honours, where the course does not meet the criteria to have per-course amounts of 480, and either: a) the course contains at least 4,200 notional learning hours and has a full-time equivalent duration of 3 full-time years plus an additional period of learning comprising less than 15 weeks of taught study containing at least 600 notional learning hours, excluding qualifying periods of foundation year, repeat study, sandwich placement, study abroad, Turing mobility or intercalated year, or b) the course has no full-time equivalent, but a minimum of 420 credits are attached to the course, excluding credits assigned to qualifying periods of foundation year, repeat study, sandwich placement, study abroad, Turing mobility or intercalated year - with each credit equalling 10 notional learning hours, in compliance with expectations and guidelines set out by the relevant regulatory body.	420
Bachelor Degree with Honours, where the course does not meet the criteria to have per-course amounts of 480 or 420, and either: a) the course contains at least 3,900 notional learning hours and has a standard full-time equivalent duration of 3 full-time years plus an additional period of learning comprising less than 15 weeks of taught study containing at least 300 notional learning hours, excluding qualifying periods of foundation year, repeat study, sandwich placement, study abroad, Turing mobility or intercalated year, or b) the course has no full-time equivalent, but a minimum of 390 credits are attached to the course, excluding credits assigned to qualifying periods of foundation year, repeat study, sandwich placement, study abroad, Turing mobility or intercalated year - with each credit equalling 10 notional learning hours, in compliance with expectations and guidelines set out by the relevant regulatory body.	390
Bachelor Degree with Honours, where the course does not meet the criteria to have per-course amounts of 480, 420 or 390.	360
Certificate of Higher Education: A course leading to the qualification “Certificate of Higher Education”.	120
Diploma of Higher Education: A course leading to the qualification “Diploma of Higher Education”.	240
First degree in Medicine, Surgery, Dentistry, Veterinary Medicine, Veterinary Surgery, or Veterinary Science, with a duration of 6 years full-time equivalent or more.	720

First degree in Medicine, Surgery, Dentistry, Veterinary Medicine, Veterinary Surgery, or Veterinary Science, with a duration of less than 6 years full-time equivalent:	600
Foundation Degree:	240
A course leading to the qualification "Foundation Degree".	
Graduate Certificate:	120
A course leading to the qualification "Graduate Certificate".	
Graduate Diploma:	120
A course leading to the qualification "Graduate Diploma".	
Graduate Entry Medical, Dentistry and Veterinary Courses:	480
A graduate entry course leading to a medicine, dentistry or veterinary degree.	
Higher National Certificate (not regulated by Ofqual(**a**)):	120
A course leading to the qualification "Higher National Certificate".	
Higher National Diploma (not regulated by Ofqual):	240
A course leading to the qualification "Higher National Diploma".	
Initial Teacher Education (ITE) programme (one year):	120
A course leading to a level 4-7 qualification in teaching, which is not on the Ofqual register (meaning the register that lists qualifications regulated by Ofqual), and either contains at least 120 credits, or more than 1,200 notional learning hours (including time spent on integrated placements).	
Integrated Masters Degree:	480
A first degree course leading to the qualification "Masters Degree".	
Postgraduate Course in Architecture:	240
A postgraduate course accredited by the Architects Registration Board.	
Postgraduate Healthcare (3 years full-time equivalent), where either:	360
a) the course has a standard full-time equivalent duration of at least 3 full-time years, excluding qualifying periods of foundation year, repeat study, sandwich placement, study abroad, Turing mobility or intercalated year, or	
b) the course has no full-time equivalent, but a minimum of 360 credits are attached to the course - with each credit equalling 10 notional learning hours, in compliance with expectations and guidelines set out by the relevant regulatory body.	
Postgraduate Healthcare (2 years full-time, plus additional short year), where the course does not meet the criteria to have a per-course amount of 360 credits, but either:	300
a) the course has a standard full-time equivalent duration of 2 full-time years, excluding qualifying periods of foundation year, repeat study, sandwich placement, study abroad, Turing mobility or intercalated year, plus an additional period of	

(**a**) Ofqual (meaning the Office of Qualifications and Examinations Regulation) regulates qualifications, examinations and assessments in England.

learning comprising less than 15 weeks of study containing at least 600 notional learning hours, or	
b) the course has no full-time equivalent, but a minimum of 300 credits are attached to the course - with each credit equalling 10 notional learning hours, in compliance with expectations and guidelines set out by the relevant regulatory body.	
Postgraduate Healthcare (2 years full-time equivalent), where the course does not meet the criteria to have per-course amounts of 360 or 300.	240

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for a fee limit condition and for determining tuition fee limits in relation to a new system of funding for "lifelong learning". The Regulations need to be read together with section 10 of, and Schedule 2 to, the Higher Education and Research Act 2017 (c. 29) ("the 2017 Act"); section 10 concerns the requirement for a mandatory fee limit condition for certain higher education providers, and Schedule 2 contains provisions on determining the amount of the fee limit in connection with a qualifying course.

Part 1 of these Regulations (comprising regulations 1 to 3) contains introductory provisions. The Regulations apply in relation to England. Regulation 2 limits the application of pre-existing subordinate legislation relating to fee limits, in order to accommodate the introduction of the new system of funding for lifelong learning. Regulation 3 makes provision for definitions used throughout the Regulations.

Part 2 (comprising regulations 4 to 7) replicates the Higher Education (Fee Limit Condition) (England) Regulations 2017 (S.I. 2017/1189), with amendments to accommodate the setting of fee limits for the new system of lifelong learning that is introduced by the Regulations. Regulations 4, 5 and 7 respectively prescribe: registered higher education providers of a certain description for the purposes of section 10(1) of the 2017 Act; the meaning of "qualifying person" for the purposes of section 10(4) of the 2017 Act; and the meaning of "qualifying course" for the purposes of section 10(6) of the 2017 Act.

The effect of Part 2 of the Regulations is that the fee limits provided for in these Regulations apply to English higher education providers (meaning providers of higher education courses whose activities are carried on, or principally carried on, in England) who are in the "approved (fee cap)" part of the register established and maintained under section 3 of the 2017 Act, in respect of all courses that are designated for lifelong learning student support under section 22 of the Teaching and Higher Education Act 1998 (c. 30) ("the 1998 Act"). Also, the fee limits provided for in these Regulations apply to "qualifying persons", meaning persons with a particular right to reside in the United Kingdom as provided for in regulation 5 and Schedule 1 (qualifying persons), when undertaking a "qualifying course".

Regulation 6 makes provision about the effect of certain events occurring during a course year on whether a person is a qualifying person.

By virtue of regulation 7, a qualifying course is a course that is designated for lifelong learning student support under section 22 of the 1998 Act, that is delivered by an English higher education provider of a description prescribed by regulation 4, and that begins on or after 1st January 2027.

Part 3 (comprising regulations 8 to 18) replicates elements of the Higher Education (Fee Limits and Fee Limit Condition) (England) Regulations 2018 (S.I. 2018/903), with amendments needed for lifelong learning and the new credit-based approach.

By virtue of regulation 8, the credit-based method is the method to be used to for determining the fee limit for a course year of a qualifying course. A "credit" is defined in paragraph 1A(1) of Schedule 2 to the 2017 Act as being "used to signify the total amount of learning that a student would ordinarily be expected to spend in order to complete a particular course or part of a course".

Regulation 9 provides for the circumstances in which a course year is to be regarded as having credits attached to it, by setting out a number of criteria to be met. These include the provider notifying the Secretary of State of the number of credits to be regarded as attached to the course year that the provider intends to charge for, and, if the course year contains credit-differentiated activity, the number of credits to be regarded as attached to each activity that the provider intends to charge for.

Regulation 10 makes provision regarding foundation year study and introduces Schedule 2, which sets out the subject codes that are relevant to whether a foundation year is to be charged as "lower fee foundation year" study.

Regulation 11 makes provision for "credit-differentiated activities", which enables the setting of different fee limits for different types of learning activity.

Regulations 12 and 13 make provision about a "per-course amount" (meaning the limit on the number of credits in a course as a whole) and a "per-year amount" (meaning the limit on the number of credits in a course year) respectively. These concepts are then used in determining the "maximum number of credits" in a course year where credits are attached (regulation 14) and the "default number of credits" in a course year where credits are not attached (regulation 15). Regulation 12 introduces Schedule 3, which sets out per-course amounts in respect of normal taught study (which varies for different higher education courses).

Regulations 16 and 17 make provision for "top-up courses" and "transfer cases" respectively, to allow for the determination of fee limits in two different circumstances where a student has prior learning that is relevant to a course that they wish to undertake (to the satisfaction of the provider of that course).

Regulation 18 makes provision regarding "per-credit limits", which allow for the fees for different activities to be set according to the value of a credit (which varies according to the type of activity in a course year).

In Part 4, regulation 19 makes a consequential amendment to the Higher Education (Fee Limit Condition) (England) Regulations 2017. The effect of this provision is that courses which are designated for the purposes of section 22 of the 1998 Act in relation to the new system of funding for lifelong learning will not be designated courses for the purposes of section 22 of the 1998 Act in relation to the system of funding that pre-dates the system of funding for lifelong learning.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector has been produced. An Explanatory Memorandum has also been produced. These are available alongside this instrument at www.legislation.gov.uk.

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